Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of: Telephone Number Portability	CC Docket No. 95-116 RM-10865

COMMENTS OF THE RURAL IOWA INDEPENDENT TELEPHONE ASSOCIATION ON THE INITIAL REGULATORY FLEXIBILITY ANALYSIS

The Rural Iowa Independent Telephone Association (RIITA) is a non-profit association of rural independent telephone companies, representing approximately one hundred and thirty Iowa incumbent local exchange carriers. RIITA's membership is restricted to mutual telephone companies in which at least fifty percent of the users are owners, co-operative telephone corporations or associations, and telephone companies having less than fifteen thousand customers and less than fifteen thousand access lines which serve rural Iowa and are incumbent local exchange carriers as defined in the 1996 Telecommunications Act.

RIITA's membership consists of companies substantially smaller than the access-line limitation to its membership. One-half of RIITA members operate fewer than twelve hundred access lines, a number of those only a few hundred. Historically, these companies have served rural areas that were not served by the Bell System. Despite the small number of customers and the expense of providing rural service, our members have offered advanced telecommunications services along with unparalleled personal service. Rural

Independents deployed digital switching and broadband Internet access at a faster rate in rural areas than the Regional Bell Operating Company and other large carriers. Our members continue to be leaders in moving toward implementing modern technologies when demanded by our customers.

The FCC's orders related to wireless intermodal number portability have had, and will have, a disproportionate impact on rural independent carriers for several reasons. One, due to the small number of customers, the hardware and software necessary for each switch has an enormous impact on individual customer rates. Two, because of the small number of employees at each company, the cost in employee time and training is disproportionately higher, further increasing the per-customer cost. Three, many rural areas do not have complete (in some exchanges, any) actual wireless coverage within the assigned service areas of major wireless carriers, diminishing the likelihood of customers needing or wanting to forego their wireline for wireless service. Four, the close association that small companies (in particular, membership telephone cooperatives) have with their customers allows the companies to accurately judge the consumer demand for new products. Rural wireline carriers consistently see the demand for intermodal number portability as nearly non-existent. The funds expended for this unwanted service would be better spent on technology that could be used by rural customers. Six, many of the wireless carriers have no point of presence in rural independent exchanges. The FCC continues to avoid addressing this critical issue, other than to relieve wireless carriers of any reverse portability requirement.

In addition, RIITA notes that demand in large urban areas is vastly less than predicted. In rural areas, where the demand will be even less and the costs higher, a cost benefit analysis would easily show that this intermodal number portability requirement is an unnecessary, unwanted and expensive boondoggle.

Furthermore, as already noted, there is often no physical connection—or existing way to connect—rural independents to wireless carriers. Where networks designed for other purposes can be used, the costs of transport and connection must absolutely be placed on the wireless carriers who benefit from this service. Wireless carriers repeatedly seek to avoid these costs. At the same time, the FCC has sidestepped the allocation of those costs.

Finally, the FCC orders, as presently structured, discriminate against rural independent wireline carriers because the FCC does not require the very same wireless carriers to port to wireline carriers.

The United States Court of Appeals for the D.C. Circuit stayed the FCC's orders on intermodal number portability for small companies because the FCC also did not engage in the required analysis under the Regulatory Flexibility Act (RFA). *United States Telecom Association v. FCC*, 400 F. 3d 29 (D.C. Cir. 2005).

In response, on April 22, 2005, the Federal Communications Commission released an order in this docket seeking comment on its initial regulatory flexibility analysis (IRFA) in the Telephone Number Portability Proceeding.

The Office of Advocacy of the U.S. Small Business Administration (Advocacy) filed comments in this docket on August 16, 2005. RIITA joins fully in those comments and adds the following additional considerations.

First, as Advocacy correctly notes, the purpose of the RFA is to analyze the economic impacts on small entities and consider significant alternatives to minimize the impact. This purpose is bolstered by Executive Order 13272, also as noted by Advocacy. This Executive Order requires that the FCC give appropriate consideration to Advocacy's written comments and respond to Advocacy's written comments.

Second, as Advocacy also notes, the FCC's IRFA does not adequately address the impact of intermodal number portability on small rural carriers because it fails to investigate that impact. In addition to the examples cited by Advocacy, the Iowa Utilities Board obtained information on the financial impact of implementing intermodal number portability on every independent within the state. *In re: Rural Iowa Independent Telephone Association and Iowa Telephone Association*, SPU-04-3. The FCC should have determined the impact on the small entities affected by the analysis.

If the FCC would properly investigate the impact of this ruling on exchanges served by rural independents, it could not reach the conclusions it reaches in its IRFA. In rejecting a requirement to limit portability to situations in which and physical point of interconnection exists, rejecting further delays of implementation, and relying on state utilities commissions, the FCC fails to address the situation it created in its orders.

Far better are the solutions offered by Advocacy. One, limiting intermodal number portability to situations in which the wireless carrier has a physical point of presence within the wireline exchange would solve the issues of transport which the FCC leaves for other dockets. These costs are too high to address them at a later date. RIITA notes that the additional requirement of negotiated interexchange agreements would solve the unilateral porting issue and would allow the rural independents to compete with the wireless carriers for ported numbers. Furthermore, this limitation would bring the entire issue back under the Telecommunications Act, which provides for local number portability, not geographic portability. The FCC's failure to limit intermodal number portability has created geographic portability outside of the rural independent carrier's exchange, as RIITA noted in comments filed in this docket in 2003 in this docket, *Comments of the Rural Iowa Independent Telephone Association*, field February 27, 2003.

Advocacy's second recommendation is a common-sense plea to address the rating and routing issues first, rather than to address the porting requirement first. The amount of time that has passed since the order requiring porting without any order addressing rating and routing illustrates the problem faced by small rural independents. They are faced with demands from wireless carriers without any support or guidance in how these ports should occur. A docket on the rating and routing issues would allow the FCC to address the real impact on small carriers as a result of the structure of wireless networks.

Advocacy's best suggestion is to exempt small rural wireline carriers. As noted by Advocacy, "small rural wireline carriers account for a small fraction of the overall lines in the nation" and the carriers "have received very few intermodal porting requests." The FCC can maximize the availability of intermodal number portability without this major impact on rural independents and their customers.

RIITA urges the FCC to adopt an effective set of rules to address the high-costs faced by rural independents in complying with intermodal number portability. The best alternative would be to exempt small rural carriers. If not exempted, the FCC should address the rating and routing issues, balance the requirement of portability so it becomes two-way obligation, and require that wireless carriers establish a physical point of connection within an exchange prior to seeking to port numbers from the wireline carrier serving that exchange. By modifying its IRFA, and modifying its orders on intermodal number portability, the FCC can fairly address the issue of intermodal number portability in a cost-effective way for small rural independent carriers.

Respectfully Submitted,

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